IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 16TH AUGUST 2006 / 25TH SRAVANA 1928

WP(C).No. 16395 of 2006(B)

PETITIONER:

M. ANASUYA, W/O. P. VENUGOPAL,
AGED 45 YEARS, HEADMISTRESS, (UNDER SUSPENSION)
BRAHMANANDA SWAMI SIVAYOGI SECONDARY SCHOOL,
KOLLENGODE, PALAKKAD DISTRICT (RESIDING AT
ANUGRAHAM, VADAVANNUR-678 504, PALAKKAD.)

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED
BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, TRIVANDRUM.

2. THE DEPUTY DIRECTOR OF EDUCATION,
PALAKKAD.

3. THE MANAGER, BRAHANANDA SWAMI
SIVAYOGI SECONDARY SCHOOL,
KOLLENGODE, PALAKKAD DISTRICT.

R1 & R2 BY G.P. SHRI VIJU THOMAS
R3 BY ADV. SRI.LIJU. M.P

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/08/2006, ALONG WITH WPC NO. 21458 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 16395/2006

EXT.P1-TRUE COPY OF THE PROCEEDINGS ORDER OF THE MANAGER DATED 3.6.2005

EXT.P2-TRUE COPY OF THE DO. DATED 11.11.2005

EXT.P3-TRUE COPY OF THE ORDER OF THE DY. DIRECTOR OF EDN. PALAKKAD

EXT.P4-TRUE COPY OF THE JUDGMENT OF THIS COURT IN WPC 36257/2005

EXT.P5-TRUE COPY OF THE GOVT. LETTER DATED 12.1.2006

EXT.P6-TRUE COPY OF THE ORDER OF THE MANAGER DATED 27.5.2006

EXT.P7-TRUE COPY OF THE ORDER OF THE DEY. DIRECTOR OF EDN. PALAKKAD DATED 8.6.2006

EXT.P8-TRUE COPY OF THE SUBMISSION OF THE PETITIONER BEFORE DO. DT.12.6.06

RESPONDENTS' EXTS:

EXT.R3(A)-TRUE COPY OF THE APPLICATION FOR LEAVE SUBMITTED ON 4.6.2005

EXT.R3(B)-TRUE COPY OF COMMUNICATION DATED 18.8.2005 MADE BY THE RESPONDENT TO THE PETITIONER's

EXT.R3(C)-TRUE COPY OF THE PROCEEDINGS DATED 3.2.2006 PASSED BY THE RESPONDENTs

EXT.R3(D)-TRUE COPY OF THE REQUEST DATED 24.4.2006 SIBMITTED BEFORE R2

EXT.R3(E)-TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 16.6.2006

EXT.R3(F)-TRUE COPY OF THE REVISION PETITION DATED 15.7.2006 SUBMITTED BEORE R1

EXT.R3(G)-TRUE COPY OF THE REVISION PETITION DATED 12.6.2006 SUBMITTED BY R3 TO R1

EXT.R3(H)-TRUE COPY OF THE POSTAL RECEIPT RECEIVED ON SENDING EXT.R3(G).

// TRUE COPY //

A. K. Basheer, J.

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W.P.(C)Nos.16395 & 21458 Of 2006

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Dated this the 16th day of August 2006.

JUDGMENT

These two writ petitions are being disposed of by this common judgment, since the issue involved in them is one and the same.

2. Writ Petition No.16395/2006 is at the instance of the Headmistress of Brahmananda Swami Sivayogi Secondary School, Kollengode in Palakkad District. The management had placed her under suspension with effect from June 3, 2005. According to the petitioner, she had met the manager and informed him that the reasons stated for the suspension were not valid. Consequently, the manager had requested her to go on leave. The above request was acceded to by the petitioner and she entered on leave till November 15, 2005. But on November 11, 2005 the manager had issued Ext.P2 order placing the petitioner under suspension with effect from November 16, 2005. The petitioner challenged the order of the manager before respondent No.2 who intervened and directed the manager to reinstate the petitioner in service pending enquiry. A true copy of the order issued by respondent No.2 has been produced as Ext.P3. Since the direction issued by respondent No.2 was not complied with, petitioner had filed writ petition No.36257/2005 for an appropriate direction to the manager in this regard. It appears that in the meanwhile, the manager challenged Ext.P3 order before the Government in a revision petition filed under Rule 92 of Chapter

XIV-A K.E.R. By Ext.P4 judgment dated December 23, 2005 this court directed the Government to take a final decision on the revision petition filed by the manager within two months. It was further directed that the petitioner be reinstated in service within three weeks if the Government had not passed any order of stay of implementation of the order of the Deputy Director. On January 12, 2006, the Government rejected the revision petition filed by the manager and directed him to reinstate the petitioner. A copy of the order issued by the Government is on record as Ext.P5. But still the manager did not reinstate the petitioner, though Ext.P5 order was passed by the Government in January 2006.

3. On May 27, 2006 the Manager issued Ext.P6 order placing the petitioner under suspension again with immediate effect. The above order was forwarded to respondent No.2 for approval. However, respondent No.2 took the view that the order of suspension was not liable to be extended. Therefore, the manager was directed to reinstate the petitioner pending enquiry. A copy of the order passed by respondent No.2 has been produced as Ext.P7. The said order was also not complied with by the manager. Therefore, she had preferred Ext.P8 before respondent No.2 for appropriate action. But still no steps were taken by the department, with the result that the petitioner had to remain out of service. It was in the above circumstances that this writ petition was filed with a prayer to quash Ext.P6 and also to issue a direction to the manager to reinstate the petitioner in service forthwith.

4. In Writ Petition No.21458/2006 which is filed by the manager, the prayer is to issue a writ of mandamus or such other appropriate writ or direction to the respondent, the Secretary to Government, General Education Department, Government of Kerala to dispose of the revision petition preferred by him against the order of the Deputy Director of Education.

Having heard learned counsel for the parties, I am of the view that it would be appropriate to dispose of the above two writ petitions with a direction to the Government, the revisional authority to consider and pass orders on Ext.P3 in writ petition No.21458/2006 as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. Ordered accordingly. It must be ensured by the Government that orders are passed in the matter within the time frame. The Government shall further ensure that the petitioner and the manager are afforded sufficient opportunity to be heard before any orders are passed in the matter.

(A.K. Basheer)
Judge.

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